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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,462	12/20/2005	Jean Gobert	FR 030069	8221
65913	7550	02/03/2009		
NXP, B.V. NXP INTELLECTUAL PROPERTY DEPARTMENT M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131				
EXAMINER YENKE, BRIAN P				
ART UNIT 2622		PAPER NUMBER		
NOTIFICATION DATE 02/03/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Office Action Summary

Application No.

10/561,462

Applicant(s)

GOBERT ET AL.

Examiner

BRIAN P. YENKE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/20/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to because Figs 1-2a/b/c do not include any text legends/description, which would aid the viewer/reader in the event the application became a patent (i.e. published). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

2. The examiner notes that the Internation Search Report submitted 12/20/05, includes an X reference, wherein no copy/list of such reference was provided. In the even the applicant desires to have such reference considered, the examiner suggests including a copy of the reference in addition to the inclusion of such on a PTO-1449, and most notably identifying what the claim limitations include which prevail over such art, in order to expedite prosecution.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-5 and 7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-5 and 7 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing "[t]he Supreme Court has recognized only two instances in which such a method may qualify as a section 101 process: when the process 'either [1] was tied to a particular apparatus or [2] operated to change materials to a 'different state or thing.''" See PTO Supp. Br. 4 (quoting *Flook*, 437 U.S. at 588 n.9). In *Diehr*, the Supreme Court confirmed that a process claim reciting an algorithm could state statutory subject matter if it: (1) is tied to a machine or (2) creates or involves a composition of matter or manufacture. 1_,_2 450 U.S. at 184." *In re Comiskey*, 84 USPQ2d 1670 (Fed. Cir. 2007). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. In order for a process to be "tied" to another statutory category, the structure of another statutory category should be positively recited in a step or steps significant to the basic inventive concept, and NOT just in association with statements of intended use or purpose, insignificant pre or post solution activity, or implicitly.

As described in the disclosure, the method may be implemented as software or a "carrier wave", thus being non-statutory subject matter..

The examiner suggests clarifying in the claim that such steps are carried out by hardware and/or deleting such reference in the disclosure to software/carrier wave in order to overcome the rejection. Alternatively, if the

applicant feels that the claims as currently recited does not necessitate a 101 rejection, the applicant should argue such.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-6 and 7, rejected under 35 U.S.C. 102(b) as being anticipated by Li et al., US 6,459,814.

In considering claims 1 and 6,

Lie discloses the YUV 4:2:0 color image format (col 7, line 1-2) in addition to using other formats. In the context of the claims 4:2:0 meets the limitation as claimed/described in the disclosure.

a) the claimed generating a luminance component...is met where Li describes that the image is shape/object based wherein the shape/texture of the luminance components are generated based upon the objects and then via applying a series of subbands and corresponding wavelet filters (See Fig 5, steps 510, 520).

b) the claimed generating a chrominance component...is met wherein based upon the translation, rotation, scaling, brightness, color variation or the like (col 1, line 20-26) and based upon the texture/shape of the luminance information determines the chrominance information (Fig 5, steps 530, 540).

In considering claim 2,

Lie discloses that the method/function relies upon transparency and/or opaqueness (col 1, line 36).

In considering claim 4,

As stated above with respect to claim 1, Lie discloses texture and shape.

In considering claim 7,

Lie discloses a system which may be implements via software/program (col 5, line 16-26).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al., US 6,459,814.

In considering claims 3 and 5,

Lie does not explicitly recite the chrominance value function being an "AVG of the transparency values" or "OR" function between the shape values, although Lie does disclose the use of 4:2:0 wherein 4 luma values pertain to the chroma value. The use of an average or "OR" function in the realm of calculation of values in encoding video images and the surrounding pixels are conventional in the art, since a pixel/shape/object/texture is identified/correlated based upon the type corresponding information surrounding such pixels, thus the calculations are considered obvious modifications to one of ordinary skill in the art.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure—see newly cited references on attached form PTO-892.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (571)272-7359. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, David L. Ometz, can be reached at (571)272-7593.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571)-273-8300

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is

(703)305-HELP.

General information about patents, trademarks, products and services offered by the United States Patent and Trademark Office (USPTO), and other related information is available by contacting the USPTO's General Information Services Division at:

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(FAX) 703-305-7786

(TDD) 703-305-7785

An automated message system is available 7 days a week, 24 hours a day providing informational responses to frequently asked questions and the ability to order certain documents. Customer service representatives are available to answer questions, send materials or connect customers with other offices of the USPTO from 8:30 a.m. - 8:00p.m. EST/EDT, Monday-Friday excluding federal holidays.

For other technical patent information needs, the Patent Assistance Center can be reached through customer service representatives at the above numbers, Monday through Friday (except federal holidays) from 8:30 a.m. to 5:00 p.m. EST/EDT.

The Patent Electronic Business Center (EBC) allows USPTO customers to retrieve data, check the status of pending actions, and submit information and applications. The tools currently available in the Patent EBC are Patent Application Information Retrieval (PAIR) and the Electronic Filing System (EFS). PAIR (<http://pair.uspto.gov>) provides customers direct secure access to their own patent application status information, as well as to general patent information publicly available. EFS allows customers to electronically file patent application documents securely via the Internet. EFS is a system for submitting new utility patent

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applications and pre-grant publication submissions in electronic publication-ready form. EFS includes software to help customers prepare submissions in extensible Markup Language (XML) format and to assemble the various parts of the application as an electronic submission package. EFS also allows the submission of Computer Readable Format (CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.

/BRIAN P. YENKE/
Primary Examiner, Art Unit 2622

B.P.Y.
28 Jan 09

